

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

CANTEEN VENDING COMPANY,  
Individually and on behalf of a class of all those  
similarly situated,

Plaintiff,

- v -

CADBURY ADAMS CANADA, INC.,  
CADBURY SCHWEPPE'S PLC, CADBURY  
ADAMS USA LLC, HERSHEY CANADA  
INC., THE HERSHEY COMPANY, MARS  
CANADA INC., MARS, INC., MARS NORTH  
AMERICA, MARS SNACKFOODS US,  
NESTLE CANADA INC., NESTLE S.A.,  
and NESTLE USA,

Defendants.

SUMMONS IN A CIVIL ACTION

CASE NUMBER:

08 CV 1205

Judge Berman

TO: (name and address of Defendant)

Mars Snackfoods US  
800 High Street  
Hackettstown, New Jersey 07840

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address):

Tanya Chutkan  
Boies, Schiller & Flexner LLP  
5301 Wisconsin Ave. N.W. Suite 800  
Washington, DC 20015  
(202) 237-2727

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

I. MICHAEL McMAHON

CLERK

*Marcos Quintero*

(By) DEPUTY CLERK

DATE

FEB 06 2008

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<b>RETURN OF SERVICE</b>		
Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE	
NAME OF SERVER ( <i>PRINT</i> )	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<div style="margin-bottom: 10px;"> <input type="checkbox"/> Served personally upon the defendant. Place where served: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.  Name of person with whom the summons and complaint were left: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Returned unexecuted: </div> <div> <input type="checkbox"/> Other (specify): </div>		
<b>STATEMENT OF SERVICE FEES</b>		
TRAVEL	SERVICES	TOTAL \$0.00
<b>DECLARATION OF SERVER</b>		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____ Address of Server</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.



COURT UNITED STATES DISTRICT COURT  
COUNTY OF SOUTHERN DISTRICT OF NEW YORK

CANTEEN VENDING COMPANY, INDIVIDUALLY AND ON BEHALF OF A  
CLASS OF ALL THOSE SIMILARLY SITUATED

Plaintiff(s)

against

CADBURY ADAMS CANADA, INC. ET AL.,

Defendant(s)

Index No. 08 CV 1205 (PKC)

**AFFIDAVIT OF  
SERVICE OF SUMMONS  
(AND COMPLAINT)**  
SEE ATTACHED RIDER

STATE OF NEW YORK, COUNTY OF NEW YORK

SS: The undersigned, being duly sworn, deposes and says; deponent is not a

party herein, is over 18 years of age and resides at WAYNE, NEW JERSEY

That on 2/20/08 at 9:27 AM., at 800 HIGH STREET, HACKETTSTOWN, NEW JERSEY

deponent served the within summons, and complaint on MARS SNACKFOODS US

defendant therein named,

SEE ATTACHED RIDER

**INDIVIDUAL**

1. ☐

by delivering a true copy of each to said defendant personally; deponent knew the person so served to be the person described as said defendant therein.

**CORPORATION**

2. ☒

a DOMESTIC corporation, by delivering thereat a true copy of each to SUE CAPOBIANCO personally, deponent knew said corporation so served to be the corporation described in said summons as said defendant and knew said individual to be MANAGING AGENT thereof.

**SUITABLE AGE PERSON**

3. ☐

by delivering thereat a true copy of each to a person of suitable age and discretion. Said premises is defendant's—actual place of business—dwelling place—usual place of abode—within the state.

**AFFIXING TO DOOR, ETC.**

4. ☐

by affixing a true copy of each to the door of said premises, which is defendant's—actual place of business—dwelling place—usual place of abode—within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and discretion thereat, having called there

**MAILING TO  
RESIDENCE  
USE WITH 3 OR 4**

5A. ☐

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to defendant at defendant's last known residence, at and deposited

**MAILING TO  
BUSINESS  
USE WITH 3 OR 4**

5B. ☐

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class post paid envelope properly addressed to defendant at defendant's actual place of business, at

in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the defendant.

**DESCRIPTION  
USE WITH  
1, 2, OR 3**

☒

<input type="checkbox"/> Male	<input checked="" type="checkbox"/> White Skin	<input checked="" type="checkbox"/> Black Hair	<input type="checkbox"/> White Hair	<input type="checkbox"/> 14-20 Yrs.	<input type="checkbox"/> Under 5'	<input type="checkbox"/> Under 100 Lbs.
<input checked="" type="checkbox"/> Female	<input type="checkbox"/> Black Skin	<input type="checkbox"/> Brown Hair	<input type="checkbox"/> Balding	<input type="checkbox"/> 21-35 Yrs.	<input type="checkbox"/> 5'0"-5'3"	<input type="checkbox"/> 100-130 Lbs.
	<input type="checkbox"/> Yellow Skin	<input type="checkbox"/> Blonde Hair	<input type="checkbox"/> Mustache	<input type="checkbox"/> 36-50 Yrs.	<input checked="" type="checkbox"/> 5'4"-5'8"	<input type="checkbox"/> 131-160 Lbs.
	<input type="checkbox"/> Brown Skin	<input type="checkbox"/> Gray Hair	<input type="checkbox"/> Beard	<input checked="" type="checkbox"/> 51-65 Yrs.	<input type="checkbox"/> 5'9"-6'0"	<input checked="" type="checkbox"/> 161-200 Lbs.
	<input type="checkbox"/> Red Skin	<input type="checkbox"/> Red Hair	<input checked="" type="checkbox"/> Glasses	<input type="checkbox"/> Over 65 Yrs.	<input type="checkbox"/> Over 6'	<input type="checkbox"/> Over 200 Lbs.

Other identifying features:

**USE IN  
NYC CIVIL CT.**

☐

The words "CONSUMER CREDIT TRANSACTION" were prominently displayed at the top of the summons(es) and the additional legend was printed in not less than 12 point bold upper case type on the summons(es) pursuant to 22 NYCRR §208.6(d) and (f).

**MILITARY  
SERVICE**

☐

I asked the person spoken to whether recipient was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Recipient wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the recipient is not in military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Sworn to before me on  
2/21/08

JOHN DICANIO  
Notary Public, State of New York  
No. 01D1497768  
Qualified in Westchester County  
Commission Expires Feb. 11, 2011

PRINT NAME BENEATH SIGNATURE  
PETER FELDMAN

License No. 797824

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X CASE NO. 08 CV 1205 (PKC)

CANTEEN VENDING COMPANY,  
Individually and on behalf of a  
class of all those similarly  
situated,

Plaintiff,

- against -

CADBURY ADAMS CANADA, INC.,  
et al.

RIDER TO  
AFFIDAVIT  
OF SERVICE

Defendants.

-----X

List of Documents Served:

- Summons in a Civil Action;
- Hon. Richard M. Berman Memo Endorsed;
- Class Action Complaint;
- 3<sup>rd</sup> Amended Instructions for Filing an Electronic Case or Appeal;
- Guidelines for Electronic Case Filing;
- Procedures for Electronic Case Filing;
- Individual Practices of Judge P. Kevin Castel; and
- Individual Rules of Practice of Judge Kevin Nathaniel Fox.